IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.MC.No. 3201 of 2007()

CC.485/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, THALASSERY

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PETITIONER: /ACCUSED AND DEFACTO COMPLAINT :-

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1. ABDUL RAZAK, S/OMAMU,
   A.K. HOUSE, OLIPPIL, PERINGATHUR
   NOW RESIDING AT ATTAKKANTAVIDA AZHIYOOR,
   VADAKARA TALUK, KOZHIKODE DISTRICT.

2. HAJIRA K.K., D/O MAMMU PARAMBATH POYIL,
   MAROTH ROAD, AZHIYOOR, VADAKARA TALUK, KOZHIKODE
   DISTRICT.

3. BUSHARA, D/O UMMER,
   PARAMBATH MEETHAI HOUSE, MAKKUNNI P.O.,
   THALASSERY.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS: COMPLAINT:-

STATION HOUSE OFFICER,
CHOKLI POLICE STATION, REP BY,
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3201 of 2007

Dated this the 18th day of October, 2007

O R D E R

Petitioners 1 and 2 are the husband and sister in law respectively of the 3rd petitioner. The marriage between the 1st and 3rd petitioner took place on 28.06.87. 3 children have been born in the wedlock. On the complaint of the 3rd petitioner before the Magistrate, which was referred to the police under Section 156(3) Cr.P.C, a crime was registered and investigation was conducted by the police. Final report was filed. Cognizance was taken of the offences punishable, inter alia, under Section 498 A I.P.C. The case has been registered and is pending as C.C.No.485 of 2006 before the Judicial Magistrate of the First Class, Thalassery.

2. All the 3 petitioners have now come before this Court through the same counsel with a prayer that the prosecution against petitioners 1 and 2 may now be quashed. Petitioners 1 and 2 have settled their disputes with the 3rd petitioner. The 3rd petitioner has compounded all the offences allegedly committed by petitioners 1 and 2. In these circumstances, it is prayed that the composition may be accepted and the prosecution may be quashed. Divorce has been effected. All claims mutually have been settled. Annexure-A3

agreement has been entered into. In these circumstances continuance of the prosecution is an unnecessary ordeal. Invoking the dictum in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386], the prosecution may be quashed, it is prayed.

4. The learned Public Prosecutor has been given notice. He raises no objection.

5. The offence under Section 498 A I.P.C is not compoundable. But I am satisfied that the parties have settled their disputes amicably and the 3rd petitioner has compounded the offence alleged against petitioners 1 and 2. **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386] is authority for the proposition that the interests of justice may at times transcend the interests of mere law and in such circumstances, stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep of the powers under Section 482 Cr.P.C. This, I am satisfied, is an eminently fit case where such powers can be invoked and premature termination of the prosecution against petitioners 1 and 2 can be brought about.

6. In the result:

a) This Crl.M.C is allowed;

b) C.C.No.485 of 2006 against petitioners 1 and 2 is hereby quashed.

(R.BASANT, JUDGE)

rtr/-